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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/647,276	08/26/2003	Steven L. Schmidt	08500.7245-02000	2646
21127	7590	03/28/2007	EXAMINER	
RISSMAN JOBSE HENDRICKS & OLIVERIO, LLP			RONESI, VICKEY M	
ONE STATE STREET			ART UNIT	PAPER NUMBER
SUITE 800				
BOSTON, MA 02109			1714	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		03/28/2007	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/647,276	SCHMIDT ET AL.
	Examiner Vickey Ronesi	Art Unit 1714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 08 January 2007.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 28-68, 76 and 77 is/are pending in the application.
  - 4a) Of the above claim(s) 45-68 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 28-44, 76 and 77 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_.

**DETAILED ACTION**

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior office action.
2. No new grounds of rejection are set forth below. Thus, the following action is properly made final.

***Claim Rejections - 35 USC § 103***

3. Claims 28-32, 35-44, and 76 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kim et al (US 6,239,210, cited on IDS dated 12/16/2004) in view of Burkett et al (US 5,539,078).

The rejection is adequately set forth in paragraph 4 of Office action mailed on 9/8/2006 and is incorporated here by reference.

4. Claims 33 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kim et al (US 6,239,210) in view of Burkett et al (US 5,539,078) and further in view of Pushee et al (US 4,392,804, cited on IDS dated 12/16/2004).

The rejection is adequately set forth in paragraph 5 of Office action mailed on 9/8/2006 and is incorporated here by reference.

5. Claim 77 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kim et al (US 6,239,210, cited on IDS dated 12/16/2004) in view of Burkett et al (US 5,539,078) and further in view of Katsumoto et al (US 5,776,361, cited on IDS dated 12/16/2004).

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The rejection is adequately set forth in paragraph 6 of Office action mailed on 9/8/2006 and is incorporated here by reference.

***Response to Arguments***

6. Applicant's arguments filed 1/8/2007 have been fully considered but they are not persuasive. Specifically, applicant argues (A) that there is no suggestion to apply a heat treatment step of Burkett to the polyamide of Kim; (B) that Burkett teaches that crystallizable copolymers with high molecular weights and melting points are achieved with solid state polymerization which would result in cloudier resin, something against which Kim teaches; and (C) that Pushee teaches that high orientation is required for PET bottles, wherein Kim does not desire high degrees of orientation.

With respect to argument (A), Kim discloses a composition comprising a polyester and a polyamide. It is the examiner's position that the polyester, and not the polyamide, is being heat treated as taught by Burkett. The instant claims are to a polymer that undergoes a step of solid-stating, wherein that polymer can be a polyester (see instant claim 36). While Kim discloses the use of a commercially available PET from Eastman, this is a preferred embodiment and it remains the examiner's position that a suitable polyester for use in bottles would obviously be subjected to a solid-stating step.

With respect to argument (B), while high levels of orientation are not desired by Kim, crystallization of PET occurs only under particular processing conditions. Kim discloses particular processing steps which result in low haze materials by controlling the degree of orientation which is not dependent on the crystallizability of the PET resin.

With respect to argument (C), Pushee was relied upon for its teachings regarding the known particulars of a solid stating process and not for its teachings regarding high degrees of orientation.

*Conclusion*

7. **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vickey Ronesi whose telephone number is (571) 272-2701. The examiner can normally be reached on Monday - Friday, 8:30 a.m. - 5:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on (571) 272-1119. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

3/22/2007  
Vickey Ronesi

VR

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